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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT: Gerald R. Koefeldt, et al. EXAMINER: Chen, José V.

SERIAL NO.: 09/954,604

GROUP ART UNIT: 3637

FILED: September 17, 2001

FOR: Nestable Pallet

ATTY DOCKET NO.: RPC 0467 D

REPLY BRIEF

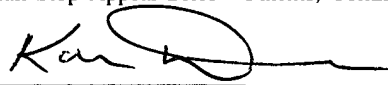
Mail Stop Appeal Briefs-Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

This Reply Brief is in response to the Examiner's Answer mailed August 23, 2004.

CERTIFICATE OF MAIL

I hereby certify that the enclosed Reply Brief (in triplicate) is being deposited with the United States Postal Service as First Class Mail, postage prepaid, in an envelope addressed to Mail Stop Appeal Brief – Patents, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on October 25, 2004.


Konstantine J. Diamond

Related Appeals and Interferences

Appellant's Appeal Brief correctly states that there are no related appeals or interferences.

Status of Claims

The Examiner's statement of the Status of Claims is correct:

Claims 14-18, 20-25 and 28-43 are rejected and appealed.

Claims 19, 26 and 27 have been cancelled.

Argument

Rejection of claims 14-37 and 42-43 over Bredal in View of Elder

The Examiner has rejected claims 14-37 and 42-43 as obvious over Bredal (US 6,234,088) in view of Elder (5,606,921). Claims 15 and 25 specify a side peripheral foot portion (or support member or foot member). Claims 14 and 30 recite a non-peripheral foot portion. Claim 24 and claims depending therefrom recite both the non-peripheral foot member and the side peripheral support member.

Bredal discloses a single sheet pallet manufactured with dimensions corresponding to one-quarter of the area of a standardized pallet. (col. 2, lines 46-49). Four of the quarter-sized pallets are arranged two-by-two to support a load. (Figure 12). The Examiner argues that it would be obvious to modify the quarter-pallets of Bredal to include a non-peripheral foot or a side peripheral foot, as shown in the full size pallets of Elder. The Examiner still points to no suggestion in Elder or Bredal for modifying Bredal's quarter-pallets. The Examiner only argues, "such structures are conventional alternative members used for the same intended purpose . . ." However, what Bredal actually teaches is that *four* of the Bredal quarter-pallets are an alternative to a single full-size pallet. As an alternative to a single full-size pallet, there would be no need for additional non-peripheral foot portions or a side peripheral foot portion. Adding a non-peripheral foot portion and four side peripheral foot portions to each of the four Bredal quarter-pallets would ultimately add twenty more foot portions total to a four quarter-pallet combination - - totally unnecessary and wasteful, since Bredal's four quarter-pallet combination already has feet in the same locations as the single full pallet.

Rejection of claims 38-41 over Bredal in View of Elder and Mathieu

The Examiner has rejected claims 38-41 as obvious over Bredal in view of Elder and in further view of Mathieu (US 1,408,114). Claim 38 recites that the cutout is substantially symmetrical about a diagonal extending from a centerpoint of the top deck to the one corner of the top deck. The Examiner admits that the legs of Bredal are not symmetrical about the specified diagonal and does not argue the motivation originally offered by the Examiner (that it would "aid in stacking or nesting," which is invalid because Bredal's quarter-pallets are already stackable and nestable). The Examiner now argues only that both Bredal and Mathieu teach "conventional alternative structures." But Bredal and Mathieu do *not* teach "conventional alternative structures." Rather, Bredal teaches the use of four quarter-sized pallets, while Mathieu discloses "a chair, table or the like," not a pallet. Pallets and chairs are not "conventional alternative structures." In fact, Mathieu teaches making the legs of the chair from a truncated metal tube c, as shown in Figures 1-8 of Mathieu. The metal tube is split longitudinally, then slit and bent in the manner described in Mathieu (page 1, lines 64-72). This technique does not even apply to Bredal, which discloses molded plastic quarter-pallets. Therefore, there is no motivation or suggestion for making the cutouts on the legs of the Bredal quarter-pallets substantially symmetrical about the diagonal, as claimed. Therefore, claims 38-41 are not obvious over Bredal and Mathieu.

Closing

For the above reasons, all of the pending claims should be allowed. If any additional fees or extensions are due, please charge Deposit Account No. 50-1984.

Respectfully submitted,



Dated: October 25, 2004

Konstantine J. Diamond
Registration No. 39,657
4010 East 26th Street
Los Angeles, California 90023
Telephone: (323) 262-5145
Facsimile: (323) 269-8506